

REMARKS

Claims 1-24 were previously pending in this application. Claims 2, 8 13 and 17–24 have been cancelled without prejudice or disclaimer. Claims 25–27 have been added and claims 1, 3–7, 9–12 and 16 have been amended herein. No new matter has been added. Applicants respectfully request reconsideration of the Application in view of the foregoing amendments and the following remarks.

Specification

The Specification has been objected to because where Applicants refer to “longitudinal center line of the weigh” on line 14 of page 8, the word “weight” is appropriate. Applicants have amended line 14 of page 8 to read “longitudinal center line of the weight” and, accordingly, request withdrawal of this objection.

Claim Objections

The February 28, 2006 Office Action indicates that claims 5–6 and 13 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Objection to claim 13 is rendered moot because the claim has been cancelled. In view of the foregoing amendments, Applicants respectfully request withdrawal of this objection with respect to claims 5 and 6.

Claims Rejections – 35 U.S.C. § 102

Claims 1–4 and 7–11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by JP 2001151487 to Atsuhiko et al. While claims 2 and 8 have been cancelled herein, the embodiment to which these claims were directed is now presented in amended independent claim 1. Applicants respectfully submit that the pending claims are patentably distinct from the cited reference.

Amended independent claim 1 recites, inter alia:

A forklift truck comprising a frame, a weight and a mounting structure for mounting the weight on the frame, wherein the mounting structure comprises . . .
a first fitting part formed on the frame; a second fitting part formed on the weight in such a manner that the first fitting part is fittingly received in the second fitting part, wherein the first hole is formed in the first fitting part and the second hole is formed in the second fitting part such that the first hole and the second hole are aligned with each other when the first fitting part is fittingly received in the second fitting part; a bolt inserted through the aligned first and second holes and a nut screwed onto the bolt for tightening it, wherein the first fitting part comprises a horizontal top portion, a first contacting portion that continues from a rear end of the top portion and extends downward, and a second contacting portion, and wherein the second fitting part comprises a first bearing surface which is in contact engagement with the first contacting portion, and a second bearing surface which is in contact engagement with the second contacting portion, characterized in that the second contacting portion of the first fitting part continues from a lower end of the first contacting portion and extends horizontally forward, and in that the second fitting part comprises a third bearing surface which is in contact engagement with the three portions of the first fitting part.

Applicants submit that the invention of Atsuhiro et al. does not anticipate amended independent claim 1 because it does not disclose each and every element of this claim. See MPEP § 2131. Atsuhiro et al. disclose a weight mounting structure in a counterbalance-type forklift, wherein a weight and a frame each comprise a plurality of engagement portions for contacting engagement upon mounting. The Examiner contends that Atsuhiro et al. disclose that the weight has (i) a first bearing surface which contacts a horizontal top portion, first contacting portion and second contacting portion of the frame, (ii) a second bearing surface which contacts the first contacting portion of the frame and (iii) a third bearing surface which contacts the second contacting portion

of the frame. Atsuhiro et al. are silent, however, as to a mounting structure, wherein the first fitting part of the frame contains a first hole and the second fitting part of the weight contains a second hole such that when the first fitting part is fittingly received by the second fitting part, the first and second holes are aligned and a bolt is inserted through them so as to tighten the frame and weight together. Apparent from Figures 1, 2 and 4 in Atsuhiro et al., the first fitting part, *i.e.*, mounting part 24 referred by the Examiner, does not comprise a first hole in the first fitting part of the frame that aligns with a second hole in the second fitting part of the weight, wherein a bolt is inserted through the aligned holes to tighten the frame and weight together. In fact, Atsuhiro et al. teach away from this design by actually disclosing a bearing surface of the second fitting part of the weight that simply sits on top of the bolt 26. Figure 4 of Atsuhiro et al. shows no indication of bolted engagement between the first fitting part (24) and the second fitting part (38).

For at least the above reasons, Applicants respectfully submit that Atsuhiro et al. do not teach or suggest each and every element recited in amended independent claim 1 or claims 3–4 and 7–11 depending therefrom. Accordingly, these claims define patentable subject matter over Atsuhiro et al. Applicants respectfully request withdrawal of this ground of rejection.

Claims Rejections – 35 U.S.C. § 103

Claims 12 and 14–16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Atsuhiro et al. in view of U.S. Patent No. 3,135,404 to Pilch. Claims 17–24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Atsuhiro et al. in view of U.S. Patent No. 3,853,231 to Luttrell. While independent claims 17 and 21 have been cancelled, the embodiments to which these claims were directed are now presented in independent claim 12 and new dependent claims 25 and 26. Depending claims 18–20 and 22–24 have been cancelled herein because they are of dependent claims 14–16 in view of the foregoing amendments. Applicants submit that the pending claims are patentably distinct from the cited references taken either alone or in combination.

As discussed above, Atsuhiro et al. do not teach or suggest the weight mounting structure as disclosed by Applicants in claim 1. Moreover, the following references cited by the Examiner do not remedy the deficiency of this prior art.

With respect to claims 12 and 14–16, the Examiner indicates that Pilch teaches a tractor mounted counterweight 18 and a method of mounting the same by moving the frame to the counterweight. See Office Action, 02/28/06, p. 5. Specifically, the Examiner states that the mounting method of Pilch, in combination with Atsuhiro et al., renders obvious moving the forklift truck back into contact with the weight so as to facilitate mounting of a stationary weight without requiring specialized equipment to move the counterweight. See Office Action, 02/28/06, p. 5. Importantly, the movement in Pilch of the frame to the weight is to position the slots 21 with the pivot pins 23, not in order to have the first fitting part be fittingly received by the second fitting part. Thus, the combination of Atsuhiro et al. and Pilch do not teach or suggest all the claim limitations of amended independent claim 12. See MPEP § 2143.

Furthermore, the Examiner indicates that Luttrell teaches a vehicle counterweight apparatus comprising a method for installing a counterweight onto a vehicle wherein the counterweight 35 is moved to the frame 18 using any suitable lifting device. See Office Action, 02/28/06, p. 6. Luttrell is silent, however, as to “a step of moving the frame and the weight to each other in such a manner that the first fitting part is fittingly received in the second fitting part,” wherein a bolt is inserted through a first hole and a second hole of a first fitting part and a second fitting part, respectively, from the weight side. In fact, Luttrell teaches away from such a configuration by, instead, disclosing angle members (32, 42, 34, 44) and stop members (36, 38) for retaining the counterweight 35.

Applicants, on the other hand, claim a method of mounting a weight in a forklift truck, wherein a frame and a weight are connected and fixed to the each other by inserting a bolt through a first hole in a first fitting part of the frame and a second hole in a second fitting part of

the weight and, thereafter, tightening the frame and the weight together with a nut. In particular, the first fitting part is fittingly received into the second fitting part through contacting engagement between a horizontal top portion, first contacting portion and second contacting portion of the frame and a first bearing surface, second bearing surface and third bearing surface of the weight. Advantageously, Applicants' invention sufficiently reduces the time and effort associated with conventional methods of mounting by eliminating to need to be adjusting the weight while trying to insert the bolts into the bolt holes. None of the cited references, taken alone or in combination, teach of suggest such a method. Accordingly, Applicants submit that a prima facie case of obviousness has not been established and combination of the cited references is improper.

For at least these reasons, Applicants submit that amended independent claim 12 is patentably distinct from the cited references and claims 14–16 depending therefrom are patentably distinct for at least similar reasons. Accordingly, Applicants respectfully request withdrawal of this ground of rejection.

Serial No. 10/810,238
Response dated June 28, 2006
Reply to Office Action of February 28, 2006

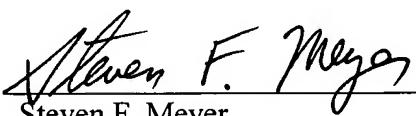
Docket No. 5095-4086

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of the claims and allowance of this application.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: June 28, 2006

By: 
Steven F. Meyer
Registration No. 35,613

Mailing Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile